

REMARKS

Applicant has reviewed and considered the Office Action mailed on October 2, 2007 and the references cited therein.

No claims have been amended, canceled, or added herein. Thus, claims 1-43 are still pending in this application.

35 USC § 102 Rejection of the Claims

Claims 1-6, 16-25, 33, 34 and 39-42 were rejected under 35 USC § 102(e) as being anticipated by *Sandhu* (US Publication 2005/0141407 A1).

The Applicants respectfully traverse this rejection. The relevant portion of 35 USC § 102(e) reads as follows:

“A person shall be entitled to a patent unless --

(e) the invention was described in -- (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent”

The date of invention associated with a U.S. patent application, unless shown to be earlier by affidavit, is taken as the filing date of the application. Therefore, to support a rejection under 35 USC § 102(e), a reference needs to have a critical reference date that precedes the U.S. filing date of the application. For a reference that does not result from, or claim the benefit of, an international application, the critical reference date for purposes of 35 USC § 102(e) is the earliest effective U.S. filing date of the reference (see, e.g., MPEP 706.02(f)(1)). For the *Sandhu* reference, the earliest effective U.S. filing date is December 30, 2003, which is the same as the filing date of the present application. Therefore, the *Sandhu* reference is not an application filed “before the invention by the applicant for patent” and is thus improper prior art in the present application.

Based on the foregoing, it is submitted that claims 1-6, 16-25, 33, 34, and 39-42 are not anticipated by Sandhu. Reconsideration and allowance of these claims is therefore respectfully requested.

35 USC § 103 Rejection of the Claims

Claims 7-15, 26-31, 35-38 and 43 were rejected under 35 USC § 103(a) as being unpatentable over *Sandhu* (US Publication 2005/0141407 A1) in view of *Kasami et al.* (US Publication 2002/0181492 A1).

As stated above, the Sandhu reference is not an application filed “before the invention by the applicant for patent” and is thus improper prior art in the present application.

Based on the foregoing, it is submitted that claims 7-15, 26-31, 35-38 and 43 are not obvious in light of the combination of Sandhu and Kasami et al. Reconsideration and allowance of these claims is therefore respectfully requested.

Please note that no part of the present response should be construed as an admission that the Sandhu reference would have been anticipatory of any of the claims of the present application or would have rendered, in combination with Kasami et al., any of the claims of the present application obvious would Sandhu have been valid prior art. Likewise, no part of the present response should be construed as an admission that the Sandhu reference teaches or suggests any of the elements of the claims of the present application. On the contrary, because the Sandhu reference is not proper prior art in the present application, no position is being taken as to the content of the reference.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (480-948-3745) to facilitate prosecution of this application.

Respectfully submitted,

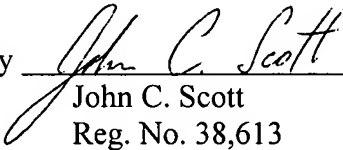
ADRIAN P. STEPHENS ET AL.

By their Representatives,

CUSTOMER NUMBER: 45643

480-948-3745

Date: January 2, 2008

By 
John C. Scott
Reg. No. 38,613

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 2nd day of January, 2008.


Shellie Bailey